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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,794	11/02/2000	Hisatomo Ohki	040679/1159	2168

22428            7590            07/29/2003

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

PATEL, MITAL B

ART UNIT            PAPER NUMBER

3761

DATE MAILED: 07/29/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	Applicati n No.	Applicant(s)
	09/703,794	OHKI ET AL.
	Examiner	Art Unit
	Mital B. Patel	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

#### Peri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 April 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 1-20 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 21 and 23-27 is/are rejected.
- 7) Claim(s) 22 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 November 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Pri rity under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of claims 21-27 in Paper No. 5 is acknowledged.
  
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

3. The information disclosure statement filed 11/2/00 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because Applicant has not provided a translation of the foreign documents. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. **It is important that the abstract not exceed 150 words in length since the space provided for the**

**abstract on the computer tape used by the printer is limited.** The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 21, 23, 24, 25, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Newell et al (US 4,778,054).

7. **As to claim 21,** Newell teaches a blister pack for an inhalant medicator, comprising a base panel 7 having a blistered portion; a lid panel 4,10 affixed obverse of the base panel to define a medical storage chamber by hermetically covering the blistered portion of the base panel; the blistered portion comprising a pair of substantially hemispherical convex portions 150 in which inflow and outflow holes are pricked during a preliminary operation of inhalant medication; and a flow-constriction portion formed between the substantially hemispherical convex portion to define a flow constriction passage.

8. **As to claim 23,** Newell teaches a blister pack wherein the blistered portion is formed as an elliptical convex portion having the flow-constriction portion narrowed in a direction perpendicular to a flat surface of the lid panel (**See Fig. 11**).

9. **As to claim 24,** Newell teaches a blister pack wherein the blistered portion is formed as a gourd-shaped convex portion having a narrow part narrowed at its center in a transverse direction (**See Fig. 11**).

10. **As to claim 25,** Newell teaches a blister pack for an inhalant medicator, comprising a base panel 7 having a blistered portion; a lid panel 4,10 affixed onto an obverse of the base panel to define a medical storage chamber by hermetically covering the blistered portion of the base panel; the blistered portion comprising a pair of shallow pricked portions 150 in which inflow and outflow holes are pricked during a preliminary operation of inhalant medication; and a medical powder collecting portion deeply recessed between the shallow pricked portions to pre-store medical powder therein.

11. **As to claim 26,** Newell teaches a blister pack for an inhalant medicator, comprising a base panel 7 having a blistered portion in which inflow and outflow holes are pricked during a preliminary operation of inhalant medication; a lid panel 4,10 affixed onto an obverse of the base panel to define a medical storage chamber by hermetically covering the blistered portion of the base panel; the blistered portion comprising a sloped surface which defines a shallow portion at a side of the inflow hole and defines a deep portion at a side of the outflow hole.

12. **As to claim 27,** Newell teaches a blister pack for an inhalant medicator, comprising a base pane 71 having a blistered portion in which inflow and outflow holes

are pricked during a preliminary operation of inhalant medication; a lid panel **4,10** affixed onto an obverse of the base panel to define a medical storage chamber by hermetically covering the blistered portion of the base panel; the blistered portion comprising a sloped surface which defines a shallow portion at a side of the outflow hole and defines a deep portion at a side of the inflow hole.

***Allowable Subject Matter***

13. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6098619, US 5881719, US 5669378, US 5622166, US5575281, US 5349947, US 4298125, US 4089415, and US 3967761.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mital B. Patel whose telephone number is 703-306-5444. The examiner can normally be reached on Monday-Friday (8:00 - 4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone numbers for

the organization where this application or proceeding is assigned are 703-306-4520 for regular communications and 703-306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

mbp  
July 27, 2003



WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700